

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

**Plaintiff,**

v.

CARDINAL HEALTH, INC.,

**Defendant.**

**No. 07-CV-6709 DAB  
ECF CASE**

**UNOPPOSED MOTION FOR ORDER DIRECTING DISBURSEMENT TO  
DEFENDANT CARDINAL HEALTH, INC. TO RETURN OVERPAYMENT OF ITS  
MONETARY OBLIGATIONS UNDER THE FINAL JUDGMENT**

Defendant Cardinal Health, Inc. (“Cardinal”) respectfully moves this Court for an Order directing the Clerk of the Court to disburse \$200,670.81 from the funds deposited in the Court Registry Investment System (“CRIS”) account in this case to Cardinal, to return Cardinal’s overpayment of its monetary obligations under the terms of the Final Judgment, together with the interest accrued on that overpayment. In support of this Motion, Cardinal states as follows:

This case was filed on July 26, 2007 as a settled matter; on August 2, 2007, and pursuant to Cardinal’s consent, the Court entered the Final Judgment in this case. *See* Docket Entry No. 2. The Final Judgment required, among other things, that Cardinal pay one dollar in disgorgement and pay a civil money penalty of thirty-five million dollars. The Final Judgment further required Cardinal to “satisfy these obligations by paying \$35,000,001” to the Clerk of the Court. *See* Final Judgment, Section V.

On May 18, 2007, prior to the filing of the Complaint, and in anticipation of the eventual settlement of the Commission’s claims against Cardinal, Cardinal placed \$35,000,000 into an

interest-bearing escrow account. This account earned \$198,108.31 in interest while the Commission reviewed and ultimately determined to accept the proposed settlement that led to the filing of this case as a settled matter. However, as a result of the escrow arrangement, Cardinal mistakenly overpaid its monetary obligations under the Final Judgment when it transferred the entire amount in the escrow account, including the \$198,108.31 in accumulated interest, to the Clerk of the Court on August 8, 2007, following the entry of the Final Judgment. The Clerk deposited the entire amount of the escrow account plus Cardinal's payment of one dollar in disgorgement, a total of \$35,198,109.31, into an interest-bearing CRIS account. *See* Declaration of Wayne M. Carlin, ¶ 4 (filed herewith).

Subsequently, counsel for Cardinal and counsel for plaintiff United States Securities and Exchange Commission ("Commission") have discussed Cardinal's overpayment of its monetary obligations under the Final Judgment. The parties agree that the overpayment was a mistake, and counsel for the Commission has informed Cardinal that it would not object to Cardinal's request to return the \$198,108.31 it overpaid, together with the interest earned on that overpayment. The Tax Administrator for the CRIS account has determined that the amount of the interest accrued on the overpayment of \$198,108.31, less taxes, is \$2,562.50. *See* Declaration of Jude P. Damasco, ¶ 4 (filed herewith).

Accordingly, Cardinal respectfully requests that the Court issue an Order directing the Clerk of the Court to disburse a total of \$200,670.81 from the CRIS account in this case to Cardinal, in order to return Cardinal's overpayment of its monetary obligations under the Final Judgment in the amount of \$198,108.31, plus \$2,562.50 in interest earned on that overpayment (net of taxes).

Counsel for the Commission has informed Cardinal that the Commission does not oppose this Motion.

Dated: June 16, 2008

Respectfully submitted,

A handwritten signature in cursive script, reading "Wayne M. Carlin", written in dark ink over a horizontal line.

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